

REMARKS

Claims 1-8 and 11 are pending and stand ready for further action on the merits.

The specification at page 5 has been amended to remove a typographical error.

Claim 1 has been amended to recite the subject matter of page 5, lines 1-7 of the specification.

No new matter has been added by way of the above amendment.

Prior Art Based Issues

Claims 1, 2 and 5 are rejected under 35 USC 102(b) as being anticipated by Tomita et al. English abstract of JP 04-114059¹. Applicants respectfully traverse the rejection.

Tomita et al. teach a thermoplastic polyester resin composition which is prepared by blending: A) a thermoplastic polyester; B) a specified epoxy group-containing olefinic copolymer; and C) an ethylene-propylene copolymer rubber. More specifically,

¹ Since the Office Action indicates that the Examiner is in the process of obtaining an English translation of Tomita et al., Applicants assume that the Examiner has already obtained it. Hence, Applicants have not prepared an English translation.

Tomita et al. teach a thermoplastic polyester resin composition obtained by blending:

100 pts.wt. thermoplastic polyester (e.g. polybutylene terephthalate) with (A) 0.5-100 pts.wt., preferably 1-80 pts.wt. epoxy group-containing olefinic copolymer composed of (A1) an α -olefin (e.g. ethylene), (A2) a glycidyl group-containing monomer (e.g. glycidyl methacrylate) having ethylenically unsaturated bond and (A3) an acrylic or methacrylic acid ester or styrene and (B) 5-150 pts.wt., preferably 8-100 pts.wt. ethylene-propylene copolymer rubber. (See abstract).

In order to further distinguish the present invention from the teachings of Tomita et al.,

Applicants have amended claim 1 to recite that the thermoplastic polyester elastomer

(A) is a polyester-polyether block copolymer comprising:

- i) a high melting point hard segment comprising aromatic polyester units; and
- ii) a low melting soft segment comprising aliphatic polyether units.

This particular polyester-polyether block copolymer in combination with the other components recited in claim 1, gives the composition advantageous properties which allow it to be used as a material for various molding products having excellent scratch resistance on the surface, flexibility, heat resistance, oil resistance, properties at low temperatures, weatherability, strength and fabrication properties.

Applicants respectfully submit that Tomita et al. fail to teach or fairly suggest the polyester-polyether block copolymer of newly amended claim 1.

The Examiner appears to be equating the polyester of Tomita et al. with the thermoplastic polyester elastomer (A). However, the polyester of Tomita et al. is distinct

from the polyester elastomer used in the present invention as is clear from the entire disclosure of the Japanese Patent to Tomita et al. (JP 04-114059). The polyester referred to therein represents polyester resins made of dicarboxylic acid components and diol components. This can be seen particularly from the beginning of the "Detailed Description" section.

In addition, in all of the Examples of Tomita et al., the polyester used is polybutylene terephthalate, which is a considerably rigid resin.

On the other hand, the polyester elastomer for use in the present invention (as described on page 5 of the specification) comprises a high melting point hard segment comprising aromatic polyester units and a low melting point soft segment comprising aliphatic polyether units and/or aliphatic polyester units.

The polyester-polyether block copolymer is a soft elastomer which is different from the polyester of Tomita et al. in polymer structure and characteristics.

In describing the requirements for rejection of a claim by anticipation, the Manual of Patent Examining Procedure (Section 2131) states:

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference (ref. omitted). The identical invention must be shown in as complete detail as is contained in the... claim (ref. omitted)."

Accordingly, Applicants respectfully indicate, every element in a claim must be found in the reference in order that the reference anticipates the claim. Since Tomita et

al. fail to teach or fairly suggest that the thermoplastic polyester elastomer (A) is a polyester-polyether block copolymer comprising:

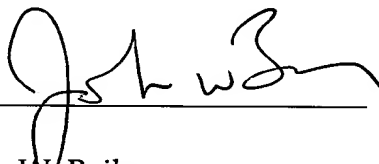
- i) a high melting point hard segment comprising aromatic polyester units; and
- ii) a low melting soft segment comprising aliphatic polyether units,

Tomita et al. do not anticipate the claims, and as such, Applicants respectfully request that the rejection be withdrawn.

In view of the above amendment, applicant believes the pending application is in condition for allowance.

Dated: May 24, 2005

Respectfully submitted,

By 
John W. Bailey

Registration No.: 32,881
BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Rd
Suite 100 East
P.O. Box 747
Falls Church, Virginia 22040-0747
(703) 205-8000
Attorney for Applicant